

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on February 21, 2003 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Arlene Becker, Vice Chairman (D)
Rep. Mark Noennig, Vice Chairman (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Daniel S. Hurwitz (R)
Rep. Larry Jent (D)
Rep. Penny Morgan (R)
Rep. Holly Raser (D)
Rep. Don Roberts (R)
Rep. Ron Stoker (R)
Rep. Jonathan Windy Boy (D)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
CJ Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 659, HB 668, HJ 29, 2/18/2003
Executive Action: HJ 29, HB 524, HB 668

HEARING ON HB 668

Sponsor: REP. STEVE GALLUS, HD 35

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 2.1 - 5.5}

REP. GALLUS stated that this bill has to do with standards for communication between quality programs and effective assistance. He stated his hope that this does not cause animosity between DPHHS and the public. The goal is to foster communication in order to provide efficient care to people who need it.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 5.5 - 17.2}

Larry Noonan, CEO of Aware Incorporated, stated that Aware Incorporated has created over 600 jobs throughout Montana for people with special needs. This program has experienced communication problems with DPHHS. He supports HB 668, as a means to help achieve a strong partnership between the Department and private agencies.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN and REP. STOKER briefly discussed with Mr. Noonan and REP. GALLUS the procedure by which standards for quality communication would be developed.

Closing by Sponsor:

REP. GALLUS stated that this legislation would be a good faith attempt for positive outcome regarding those Montana citizens in need of care.

HEARING ON HJ 29

Sponsor: REP. STEVE GALLUS, HD 35

Opening Statement by Sponsor:

REP. GALLUS stated that this bill reaffirms the Legislature's commitment to enhancing the State's capacity to improve care for Montana's children and families through strengthening community-based services.

{Tape: 1; Side: A; Approx. Time Counter: 17.2 - 22.9}

Proponents' Testimony:

Jani McCall, Montana Children's Initiative, Deaconess Billings Clinic, and YMCA, suggested to the Committee two amendments to the bill: On Page 1, Line 21, following "not-for-profit," add "along with for-profit." On Page 2, Line 18, following "not-for-profit," add "and for-profit." She stressed that nonprofit businesses are the fifth largest source of wages in Montana. These amendments will affirm the role of nonprofits in partnership with the State in meeting the needs of people.

{Tape: 1; Side: A; Approx. Time Counter: 22.9 - 28}

Maggie Bullock, DPHHS, Administrator of Health Policy and Services Division, spoke in support of JR 29. She spoke of a grant in the Senior Long Term Care (SLTC) Division, known as the "Choice Grant," recognizing personal care needs of those who have disabilities. The grant is meant to elevate the roles of those who provide that care, as well as to recruit nontraditional workers such as senior citizens or people with disabilities to help provide care.

Ms. Bullock mentioned HJ 13, an effort by DPHHS to redesign or refinance Health Services over the next two years. It is Director Gray's intent to create a new division which will encompass Children's Mental Health Services, CHIP, Children's Special Health Care Needs, and Medicaid Primary Acute Care.

Steve Yeakel, Montana Council for Maternal and Child Health, Montana Human Resource Development Council Directors Association, Montana Childcare Resource and Referral Network, stated that nonprofits in our state are a valuable resource. He urged support of HJ 29 as a means of strengthening private/public partnerships.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 7}

Bonnie Adee, Mental Health Ombudsman, said that parents want their children to receive help as close to home as possible. These nonprofit and for-profit providers are key to making that happen.

John Flink, Montana Hospitals Association (MHA), spoke in support of this resolution.

Anita Roessmann, Montana Advocacy Program, stated that this resolution serves all people, not just children. State institutions are no longer "the place" for people with special needs, but there is a trend toward community-based care. She pointed out that a lack of support for this resolution may mean that the staff which the community organizations need will not be retained.

Kristi Blazer, Rimrock Foundation, Billings, and KIDS Behavioral Health of Montana, Butte, spoke in support of the resolution.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 7 - 8.9}

REP. WINDY BOY asked **REP. GALLUS** if the language "community-based health services" on Page 1, Line 7 of HJ 29 has to do with President Bush's faith-based initiative. **REP. GALLUS**, conferring with Janie McCall, assured him that it does not.

Kristi Blazer brought clarification about the competitive grants available through the Bush Administration's "New Freedom Initiative," which promotes consumer and family choice in disability-related treatment. Montana received a grant in the Senior and Long Term Care Program (SLTC) for approximately \$800,000. She said that the "New Freedom Initiative" mentioned on Page 2, Line 2 of HJ 29 is not, to her knowledge, attached to the President's faith-based initiative program.

{Tape: 1; Side: B; Approx. Time Counter: 8.9 - 13.3}

In response to **REP. MORGAN'S** question regarding the status of hospitals, **Janie McCall** stated that hospitals can be both non-profit and for-profit, but the vast majority in Montana are non-profit.

REP. STOKER expressed concern about fairness and competition between "for-profit" and "not-for-profit" organizations. **Janie McCall** explained that the amendment is not designed to foster competition, but rather partnership between "for-profit" and "not-for-profit" organizations.

REP. HURWITZ asked if HJ 13 will cover what is needed in the proposed amendments to HJ 29. **REP. GALLUS** explained that this resolution is necessary as a statement that the Legislature recognizes and affirms that community-based services are good for communities.

{Tape: 1; Side: B; Approx. Time Counter: 13.3 - 27.1}

Addressing Anita Roessmann, **REP. FACEY** inquired regarding the status of Eastmont in Glendive and Montana Development Center in Boulder (MDC). **Ms. Roessmann** answered that there is a bill pending to close Eastmont. She stated that treatment teams at both Eastmont and MDC have concluded that their clients identified in the Travis D class action lawsuit (1996) would do better in community-based services.

Closing by Sponsor:

REP. GALLUS quoted his hero in politics, Tip O'Neill. He stated his hope that by unanimous support of this resolution, the Committee will take action that will foster health in communities.

EXECUTIVE ACTION ON HJ 29

Motion: **REP. FACEY** moved that HJ 29 DO PASS.

Motion/Vote: **REP. NOENNIG** moved that LANGUAGE BE INSERTED IN HJ 29 BE AMENDED TO READ ON PAGE 1, LINE 21, FOLLOWING "NOT-FOR-PROFIT," ADD "ALONG WITH FOR-PROFIT," AND ON PAGE 2, LINE 18, FOLLOWING "NOT-FOR-PROFIT," ADD "AND FOR-PROFIT. Motion carried unanimously.

Motion/Vote: **REP. GALLUS** moved that HJ 29 DO PASS AS AMENDED. Motion carried unanimously.

HJ 29 was moved to the consent calendar without objection.

HEARING ON HB 659

Sponsor: REP. CHRISTINE KAUFMANN, HD 53

Opening Statement by Sponsor:

REP. KAUFMANN informed the Committee that HB 659 is an act prohibiting DPHHS from penalizing recipients of public assistance for Department errors.

Proponents' Testimony:

Mary Caferro, Working or Equality and Economic Liberation (WEEL), read her testimony to the Committee.

EXHIBIT (huh39a01)

{Tape: 2; Side: A; Approx. Time Counter: 0 - 5}

REP. JONATHAN WINDY BOY, HD 92, spoke as a Tribal Chairman in an area of high unemployment, stating that individuals who are penalized for DPHHS errors have no place to go. It places them in a desperate situation. He asked for a do-pass on HB 659.

Opponents' Testimony: None

Informational Testimony:

Hank Hudson, DPHHS, stated that he is available to answer any questions.

Questions from Committee Members and Responses:

REP. NOENNIG asked REP. KAUFMANN to explain the requirements of federal law mentioned in Line 16 of HB 659. REP. KAUFMANN deferred to Hank Hudson.

Hank Hudson informed the Committee that there are overriding federal laws which determine overpayment/repayment methodology. He explained that this law would apply in those cases only where there is not overriding federal law.

Mr. Hudson went on to point out that cases involving inadvertent error are handled differently from those involving fraud. If an error has been made, the Department only collects on monies owed, with no interest; if fraud is involved, it is handled in a different manner. The language "penalized" refers to money that must be paid back, not interest charged to the recipient.

He stressed that a Department error of overpayment, requiring a recipient to reimburse the money, is a rare event. The fiscal note associated with this bill specifies approximately \$200,000 for recovery of agency error expenditures annually, while DPHHS issues \$136 million in benefits each year.

{Tape: 2; Side: A; Approx. Time Counter: 5 - 11.2}

REP. KAUFMANN concurred with Mr. Hudson that there are few errors, commenting that the Department does an excellent job. However, when error does occur, repayment is a hardship upon families who are genuinely unable to pay.

REP. MORGAN asked if the way the bill reads means that DPHHS will have to continue an overpayment due to a fact that the inflated amount was the fault of the Department. **REP KAUFMANN** stated that was not her intent; she will be glad to bring an amendment which will clarify that point if the Committee deems it necessary.

REP. NOENNIG suggested that changing the language "be penalized" to "be required to repay" would accomplish what the sponsor intends.

{Tape: 2; Side: A; Approx. Time Counter: 11.2 - 18.9}

REP. ROBERTS asked Mr. Hudson how the recipients can know that they have been overpaid. **Mr. Hudson** replied that the system can be complicated, and it is not unthinkable that a person might receive an amount which differs from the amount they thought they would receive.

REP. NOENNIG discussed with **REP. KAUFMANN** the dilemma of integrity and honesty which recipients might find themselves in, should they realize that they have been overpaid by DPHHS. **REP. KAUFMANN** stressed once again that her intent in this bill was to address overpayments which, though minor, would be a great hardship upon people who have no resources to repay even small amounts. She stated her opinion that an obvious, large overpayment should be recognized by the recipient, and duly repaid.

{Tape: 2; Side: A; Approx. Time Counter: 18.9 - 23.6}

REP. FACEY remarked that based upon his calculations, the DPHHS error rate comes to only .13 percent. He inquired of Mr. Hudson how much general fund money is involved. **Mr. Hudson** replied that \$154,000 is general fund, and \$42,000 is federal special revenue.

{Tape: 2; Side: A; Approx. Time Counter: 23.6 - 27.8}

REP. NOENNIG asked **REP. KAUFMANN** if, as the current law provides for DPHHS to exercise discretion regarding repayment of benefits issued in error, a compromise in the language of the bill could be struck. He suggested that this bill should provide guidance to DPHHS in a circumstance where substantial overpayment or duplicate checks versus slight overpayment occurs. **REP. KAUFMANN** replied that a problem occurs in defining what DPHHS might deem "substantial," versus what a client might see as "substantial." However, both she and **REP. NOENNIG** agreed to work on fine-tuning the language in the bill.

{Tape: 2; Side: A; Approx. Time Counter: 27.8 - 33}

REP. FACEY queried Mr. Hudson regarding how often audits are conducted and the process for finding errors. **Mr. Hudson** explained the process.

Closing by Sponsor:

REP. KAUFMANN closed by asking for support of this bill, saying that she will work with DPHHS to find language which will be satisfactory to all.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 15.5}

EXECUTIVE ACTION ON HB 668

Motion: **REP. FACEY** moved that HB 668 DO PASS.

Discussion:

REP. FACEY commented that this will be a hard bill to implement. It will require the Department to do yet one more thing on top of their already busy work schedule.

Motion/Vote: **REP. FACEY** moved that HB 668 BE TABLED. Motion carried 12-1 with **REP. GALLUS** voting no. **REP. HURWITZ** voted by proxy.

EXECUTIVE ACTION ON HB 524

Motion: REP. MORGAN moved that HB 524 DO PASS.

Discussion:

REP. MORGAN reported that she spoke with REP. CLARK, because of his interest in similar legislation, and he stated that he has no problem with the bill.

REP. NOENNIG said that he also spoke with REP. CLARK, who pointed out that this is a request for licensure.

REP. STOKER said that, having read the letter from Alternative Youth Adventures (AYA) stating that they are closing down the back country portion of their program here, he is concerned about developing legislation regarding licensure of some non-existent thing. He recommended tabling the bill, and letting REP. CLARK come back with stronger legislation when there is a need for it.

Motion: REP. STOKER moved that HB 524 BE TABLED.

Discussion:

REP. HAWK offered his opinion that the bill should be discussed as is, without amendments, before it is tabled prematurely.

The members of the Committee discussed various aspects of HB 524, referencing proposed amendments requested by REP. SCOTT MENDENHALL. (See Exhibit 2)

EXHIBIT (huh39a02)

CHAIRMAN THOMAS asked REP. STOKER to withdraw his motion.

REP. STOKER withdrew his motion to table HB 524.

The members of the Committee discussed the recommendations suggested by REP. MENDENHALL's proposed amendments to HB 524.

{Tape: 2; Side: B; Approx. Time Counter: 15.5 - 19}

CHAIRMAN THOMAS commented that these recommendations may well apply to any group coming to Montana whose purpose and function is similar to AYA, and having such criteria in place would be beneficial.

REP. HAWK offered his opinion that this bill is not the vehicle to accomplish this end.

REP. MORGAN reiterated the opinion that taking action on this bill during this session is premature.

Motion/Vote: **REP. STOKER** moved that HB 524 BE TABLED. Motion carried 12-1 with **REP. ROBERTS** voting no. **REP. HURWITZ** voted by proxy.

ADJOURNMENT

Adjournment: 5:00 P.M.

REP. BILL THOMAS, Chairman

CJ JOHNSON, Secretary

BT/CJ

EXHIBIT (huh39aad)